

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
Section 81-885.24(26) and 299 NAC 5-003.07 by failing to obtain a written acknowledgment disclosing the licensees involved in the transaction were agents of and representing the seller; and 81-885.24(29) by demonstrating negligence by failing to assist the seller in the establishment of the escrow account or in the closing of the sale of the real estate.	92-031 - Commission vs. Delbert E. Peterson	September 1, 1992	License revoked.
Section 81-885.21(1) and (6) by failing to deposit monies or hold monies in a Trust Account until the transaction was consummated; 81-885.24(26) and NAC 5-003.07 and 5-003.19 by failing to obtain a written acknowledgment disclosing the licensees involved in the transaction were agents of and representing the seller and by failing to supervise a Salesperson in her employ; and 81-885.24(29) by demonstrating negligence to act as a Broker.	92-032 - Commission vs. Joanne E. Peterson	September 1, 1992	Revoked.
Chapter 5-003.07 and 81-885.24(29) by failing to disclose to the buyers and sellers that all licensees involved in the transactions were agents of and representing the seller, and by demonstrating negligence, incompetency or unworthiness to act as a Broker.	93-007 - Commission vs. Dave Davidson	March 24, 1993	Stipulation and Consent Order. Probation of 120 days, with additional 6 hours continuing education.
Section 81-885.24(26) by violating a rule or regulation, to wit: Ch. 5-003.14 by failing to deposit earnest money in 48 hours, Ch. 3-006 by failing to transfer money to listing broker, Ch. 5-003.04 by failing to give seller an estimate of closing costs or have it signed, Ch. 5-003.10 by failing to give seller an estimate of closing costs or have it signed, Ch. 5-003.11 by failing to give buyer an estimate of closing costs or have it signed, Ch. 5-003.07 by failing to comply with 76-2401 through 76-2430 in the following: 76-2420 by failing to adopt a written agency policy; 76-2421 by failing to properly complete or retain an agency pamphlet, Ch. 5-003.23 or Ch. 5-003.24 by failing to deliver a copy of the disclosure statement to the purchaser & get a signed receipt, Ch. 3-002 by failing to maintain a bookkeeping system; 81-885.21 by	97-003 - Commission vs. Cameron Houston Thomas	April 1, 1997	Stipulation and Consent Order. License suspended one year; plus an additional 9 hours continuing education, 3 hours in trust accounts, 3 hours in disclosures, and 3 hours in license law.

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
failure to notify Commission of a trust account; 81-885.24(3) by failing to account for other's money; 81-885.24(5) by failing to deposit all money; 81-885.24(22) by making substantial misrepresentation; and 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Broker.	97-003 - Commission vs. Cameron Houston Thomas		
Section 81-885.24(5) by failing to maintain & deposit in a separate account all money received in a real estate transaction; 81-885.24(26) by violating a rule or regulation adopted by the Commission, to wit: Ch. 3-002 by failing to maintain an accurate bookkeeping system; Ch. 3-004 by paying monies out of the trust account prior to the time they are due; Ch. 5-003.07 and 5-003.08 by failing to comply with 76-2401 through 76-2430 in the following: 76-2422(24) by acting as a dual agent without obtaining the written agreement of the seller & the buyer; Ch. 5-003.10 by failing give sellers those categories of cost they will be expected to pay at closing & to prepare an estimate; Ch. 5-003.11 by failing to give prospective purchaser those categories of cost the purchaser will be expected to pay at closing & by failing to prepare an estimate; Ch. 5-003.14 by failing to deposit earnest money in 48 hours; Ch. 5-003.12 by failing to supervise his salesperson; and 81-885.24(29) by demonstrating negligence or unworthiness to act as a Broker.	97-005, 97-006 - Commission vs. Harold S. Kaufman	April 17, 1997	Stipulation and Consent Order. License suspended two years, with entire period served on probation, plus 12 hours additional continuing education, 3 hours in license law, 6 hours in bookkeeping, and 3 hours in disclosures.
Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interests of the public and consistent with the Nebraska Real Estate License Act to include: Ch. 5-003.01 by preparing a land contract without having it approved by an attorney; and Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2418(c)(iv) by failing to advise the buyers to obtain expert advice regarding drafting of a land contract and closings, the expertise which is beyond the expertise of the Respondent. Violated 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Salesperson.	97-007 - Commission vs. Russell Dean Lefever	June 18, 1997	License Revoked.

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>Section 81-885.24(19) by violating a rule or regulation adopted by the Commission; Ch. 3-002 by failing to maintain an accurate bookkeeping system, Ch. 5-003.07 by failure to comply with 76-2410 through 76-2430, to wit: 76-2421 by failing to properly complete and retain an agency pamphlet, 76-2420 by failing to adopt a written agency policy, Ch. 5-003.08 by failing to write a disclosure on dual agency in accordance with 76-2422(4) by not having a written agreement of the seller &amp; buyer or landlord &amp; tenant permitting the designated broker to serve as a dual agent, Ch. 5-003.10 by failing to give seller closing costs &amp; failing to prepare a written estimate or have one signed, Ch. 5-003.11 by failing to give purchaser closing costs &amp; failing to prepare a written estimate or have one signed, Ch. 5-003.14 by failing to deposit earnest money in 48 hours, Ch. 5-003.22 by failing to supervise, Ch. 5-003.23 by failing to give a copy of the disclosure statement to the purchaser or their agent, Ch. 5-003.24 by failing to give a copy of the disclosure statement to the purchaser or get signed receipt, 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Broker.</p>	<p>97-036 - Commission vs. Glenda Harders</p>	<p>August 19, 1997</p>	<p>Stipulation and Consent Order. License suspended two years, plus 6 hours continuing education, 3 hours in agency law and 3 hours in trust accounts.</p>
<p>Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, Ch. 3-001 by failing to properly maintain records relating to any real estate transaction, Ch. 3-002 by failing to maintain a bookkeeping system which will accurately and clearly disclose full compliance with the laws relating to the maintaining of trust accounts, Ch. 5-003.14 by failing to deposit any funds received as an earnest money deposit within 48 hours or before the end of the next banking day after an offer is accepted, and Ch. 5-003.07 by failing to comply with 76-2421 by failing to properly complete and retain an "Agency Acknowledgment Disclosure Pamphlet."</p>	<p>97-047 - Commission vs. John C. Clark</p>	<p>December 10, 1997</p>	<p>Stipulation and Consent Order. License suspended for two-years, with said suspension on probation, plus 12 hours of continuing education, 3 hours in trust accounts, 3 hours in disclosures, 3 hours in agency law, and 3 hours in rules and regulations.</p>
<p>Section 81-855.24(19) by failing to include a fixed date of expiration in any written listing agreement; 81-855.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with</p>	<p>98-012 - Commission vs. Mark F. Abboud</p>	<p>May 29, 1998</p>	<p>Stipulation and Consent Order. License suspended for 2 years, with said suspension stayed and served on probation from May 29, 1998 through May</p>

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

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<p>the Nebraska Real Estate License Act, specifically Title 299, N.A.C., Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the laws relating to the maintaining of trust accounts; Ch. 5-003.10 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing, failing to prepare a written estimate of the costs the seller will be expected to pay at closing, and failing to obtain the signature of the seller on said written document; Ch. 5-003.11 by failing to identify to the prospective purchaser, in writing, at the time the offer is written by the purchaser or a counteroffer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing, and by failing to obtain the signature of the purchaser on said document; Ch. 5-003.14 by failing to deposit any funds received as an earnest money deposit within 48 hours or before after an offer was accepted; Ch. 5-003.23 by failing to assure that a copy of the Seller Property Condition Disclosure Statement was delivered to the purchaser or to the agent of the purchaser, on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property; Ch. 5-003.24 by failing, as the agent of the purchaser, to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property and to obtain the signed receipt of the purchaser; Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2401 through 76-2430, particularly 76-2417 by acting as an agent for the seller without benefit of a written contract, 76-2420 by failing to adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities, 76-2421 by failing to provide a written copy of the current brokerage disclosure pamphlet to a seller, landlord, entered into a written agreement for brokerage services with a designated broker at the earliest practicable opportunity during or</p>	<p>98-012 - Commission vs. Mark F. Abboud</p>		<p>29, 2000, with an additional 12 hours of continuing education to include 3 hours in trust accounts, 3 hours on agency, 3 hours in license law, and 3 hours in disclosures to be completed by March 1, 1999.</p>

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
following the first substantial contact, and 76-2422(04) by acting as a dual agent without obtaining the written agreement of the seller and the buyer; Ch. 3-006 by failing, in the case of cooperative sales between brokers, to deposit earnest money payment in the Respondent's real estate trust account within 48 hours or before the end of the next banking day after an offer is accepted, in writing, and then forthwith transferring such earnest money deposit to the listing broker; and 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as the broker.	98-012 - Commission vs. Mark F. Abboud		
Section 81-855.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically Title 299, N.A.C., Ch. 3-002 by failing to maintain a bookkeeping system which will accurately and clearly disclose full compliance with the laws relating to the maintaining of trust accounts; Ch. 5-003.23 by failing to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser or the agent of the purchaser, on or before the effective date of any contract which binds the purchaser to purchase the residential real property; Ch. 5-003.24 by failing to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property and to obtain the signed receipt of the purchaser; Ch. 5-003.13 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing and to prepare a written estimate of the costs the seller will be expected to pay at closing; Ch. 5-003.11 by failing to identify to the prospective purchaser, in writing, at the time an offer is prepared by the purchaser or a counteroffer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing and a written estimate of the costs the purchaser will be expected to pay at closing; Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2401 through 76-2430, in particular, 76-2417 by representing a seller	98-015 - Commission vs. Fred L. Swett	May 19, 1998	Stipulation and Consent Order. License suspended for 2 years, with said suspension stayed and served on probation from May 19, 1998 to May 19, 2000, with an additional 12 hours of continuing education to include 3 hours in trust accounts, 3 hours in disclosures, 3 hours in agency, and 3 hours in rules and regulations.

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
without a written listing agreement, 76-2421 by failing to provide, at the earliest practicable opportunity during or following the first substantial contact with the seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, a written disclosure regarding agency, 76-2422 by failing to authorize affiliated licensees, in writing, what agreements may be entered into on behalf of the Respondent; and 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a broker.	98-015 - Commission vs. Fred L. Swett		
Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Law, specifically, Title 299, N.A.C. Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the laws relating to the maintenance of trust accounts; Ch. 5-003.10 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing, failing to prepare a written estimate of the cost the seller will be expected to pay at closing, and failing to obtain the signature of the seller on said written document; Ch. 3-006 by failing, in the case of cooperative sales between brokers, to deposit an earnest money payment in her real estate trust account within forty-eight hours or before the end of the next business day after an offer is accepted, in writing, and then forthwith transferring such earnest money deposit to the listing broker; Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2401 through 76-2430 in the following particulars: 76-2420 by failing to adopt a written policy which identifies and which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities; and 76-2421 by failing to provide a written copy of the current brokerage disclosure pamphlet to a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker at the earliest practicable opportunity during or following the first substantial contact; 81-885.02 by	98-026 - Commission vs. Buree Stovall	February 24, 1999	Stipulation and Consent Order. License suspended for two years, with first 90 days of said suspension served and the remaining suspension time stayed and served on probation; plus an additional 12 hours of continuing education to include 3 hours in trust accounts, 3 hours in agency and six hours as determined and approved by the Director. *Per Show Cause Hearing on June 26, 2001, license censured.

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
conducting the business of a broker without an active real estate license; 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as the broker.	98-026 - Commission vs. Buree Stovall		
Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public inconsistent with the Nebraska Real Estate License Act, in each of the following particulars, Title 299, N.A.C. Ch. 5-003.07 in each of the following particulars, by failing to comply with the following: 76-2419(2) and 76-2418(c)(iii) by failing to disclose in writing to the client adverse material facts; 76-2419(2) by failing to disclose to the buyer information relevant to the transaction or client; Ch. 5-003.04 by failing to make known, in writing, to any purchaser, prior to the buyer becoming obligated to purchase the property, his interest in the property for sale; 81-885.24(29) by demonstrating negligence to act as a broker.	98-013, 98-022, 98-024 - Commission vs. Kenneth John Jansen	March 23, 1999	Stipulation and Consent Order. License suspended from May 1, 1999 through December 31, 2000, with the first 45 days of said suspension served and the remaining time stayed and served on probation; plus twelve (12) hours of continuing education to include three (3) hours in agency, three (3) hours in disclosures, three (3) hours in license law, and three (3) hours to be determined by Director.
Section 81-885.24(19) by failing to include a date of expiration on the listing contract; 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically: Title 299, N.A.C. Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the laws relating to the maintaining of trust accounts; Ch. 5-003.10 by failing to identify to the seller, in writing, at the time the offer was presented and accepted, those categories of cost the seller would be expected to pay at closing, failing to prepare a written estimate of the costs the seller would be expected to pay at closing, and failing to obtain the signature of the seller on said document; Ch. 5-003.11 failing to identify to the purchaser, in writing, at the time an offer was written by the purchaser or a counter-offer was accepted by the purchaser, those categories of costs the purchaser would be expected to pay at closing, failing to prepare a written estimate of the costs the purchaser would be expected to pay at closing and failing to obtain a signature of the purchaser on said written document; Ch. 5-003.14 by	1999-035 - Commission vs. Charles E. Degaillez	December 14, 1999	Stipulation and Consent Order. License suspended for two years, with said suspension stayed and served on probation, from December 14, 1999 through December 13, 2001; plus twelve (12) hours of additional continuing education to include three (3) hours in trust accounts, three (3) hours agency, three (3) hours in license law, and three (3) hours in disclosures.

CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

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<p>failing earnest money deposit within 48 hours or before the end of the next banking day after an offer is accepted, in writing, unless otherwise provided in the purchase agreement; Ch. 5-003.24 and 71-2120 by, when acting as an agent of the purchaser, the Respondent failed to obtain the signed receipt of the purchaser on the Seller Property Condition Disclosure Statement; Ch. 5-003.07 and Ch. 5-003308 by failing to comply with 76-2401 through 76-2430 in the following particulars: 76-2421 by failing to provide a written copy of , or properly complete, the current brokerage disclosure pamphlet to a seller or buyer who is not entered into a written agreement for brokerage services wit a designated broker at the earliest practicable opportunity during or following the first substantial contact, 76-2419 by failing to obtain the written consent of the buyer and seller to act as a dual agent, 76-2422 and 76-2417 by acting as a limited agent for the seller without entering into a written agency agreement; 81-8853.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker.</p>	<p>1999-035 - Commission vs. Charles E. Degaillez</p>		
<p>Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically: Title 299, N.A.C. Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the laws relating to the maintaining of trust accounts; Ch. 5-003.10 by failing to identify to the seller, in writing, at the time the offer was presented and accepted, those categories of cost the seller would be expected to pay at closing, failing to prepare a written estimate of the costs the seller would be expected to pay at closing, and by failing to obtain the signature of the seller on said document; Ch. 5-003.14 by failing to deposit any funds received as an earnest money deposit within 48 hours or before the end of the next banking day after an offer is accepted, in writing, unless otherwise provided in the purchase agreement; Title 299, N.A.C. Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with Section 76-2421 by failing to provide a written copy of the current brokerage disclosure</p>	<p>1999-036 - Commission vs. Michele Williams</p>	<p>December 14, 1999</p>	<p>Stipulation and Consent Order. License suspended for two years, with said suspension stayed and served on probation, from December 14, 1999 through December 13, 2001; plus twelve (12) hours of additional continuing education to include three (3) hours in trust accounts, three (3) hours in agency, three (3) hours in license law, and three (3) hours in disclosures.</p>



CHAPTER 5-003.07 - FAILURE TO DISCLOSE AGENCY RELATIONSHIPS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
pamphlet to a seller or buyer who is not entered into a written agreement for brokerage services with a substantial contact; 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker. designated broker at the earliest practicable opportunity	1999-036 - Commission vs. Michele Williams		
Section 81-885.24(22) by making a substantial misrepresentation; 81-885.24(26) by violating any rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically, Title 299, N.A.C., Ch. 5-003.07 by failing to comply with the requirements set forth in 76-2401 through 76-2430, particularly, 76-2418(1)(b) by representing a buyer but failing to exercise reasonable skill and care for the client; 76-2419 by failing to perform the terms of the written agreement and exercise reasonable skill and care for the client and promote the interest of the client with the utmost good faith, loyalty and fidelity; 76-2421(1) by failing, at the earliest practicable opportunity during or following the first substantial contact with the seller or buyer who has not entered into a written agreement for brokerage services to provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the Commission and disclose in writing which party the licensee is representing; 81-885.24(29) by demonstrating negligence to act as a salesperson.	2001-038 - William J. & Cindy C. Sarraillon vs. Vincent Muniz, Jr.	April 3, 2002	Stipulation & Consent Order. License suspended for thirty (30) days with entire period served on probation from April 3, 2002, through May 2, 2002; plus an additional six (6) hours of continuing education, including three (3) hours in the area of agency and three (3) hours in the area of license law to be completed by October 2, 2002.

